

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION**

KENNETH L. WALLER,  
ADC #103829

PLAINTIFF

V.

5:13CV00030 JLH/JTR

LORIE A. TAYLOR; and  
RANDY BUDNIK;  
Disciplinary Hearing Officers,  
Arkansas Department of Correction

DEFENDANTS

**ORDER**

Plaintiff, Kenneth L. Waller, is a prisoner proceeding *pro se* in this § 1983 action. He has recently filed two Motions, which the Court will address separately.

**I. Motion to Disqualify Judge**

Plaintiff has filed a Motion arguing that I should recuse because I have entered unfavorably rulings against him in this lawsuit, as well as in *Waller v. Kelley*, 1:11CV00095 JLH/JTR.

A judge must "disqualify himself in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). Because a judge is presumed to be impartial, the "party seeking disqualification bears the substantial burden of proving otherwise." *Am. Prairie Constr. Co. v. Hoich*, 594 F.3d 1015, 1022 (8th Cir. 2010); *U.S. v. Denton*, 434 F.3d 1104, 1111 (8th Cir. 2006). Additionally, the Eighth

Circuit has clarified that a judge's rulings in the current or prior proceeding "do not constitute a basis for a bias or partiality" unless the rulings "display a deep-seated favoritism or antagonism that would make fair judgment impossible." *Id.*

Plaintiff has not made any such showing. Further, I do not have any such impartiality or antagonism toward Plaintiff. Rather, my rulings have been based upon an impartial application of the law to the facts and circumstances presented in this case. Thus, the Motion to Disqualify is denied.

## **II. Motion for an Extension of Time**

Plaintiff has filed a Motion seeking an additional twenty days to file his Amended Complaint. *See* Doc. #14. The Court finds good cause for granting that request. Accordingly, the Motion for an Extension of Time is granted.

## **III. Conclusion**

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's Motion to Disqualify Judge (Doc. #12) is DENIED.
2. Plaintiff's Motion for an Extension of Time (Doc. #14) is GRANTED, and he must file his Amended Complaint **on or before July 1, 2013**.
3. Plaintiff is reminded, as explained in the May 17, 2013 Order, that his failure to timely do so will result in the dismissal of this action pursuant to Local Rule 5.5(c)(2).

Dated this 17th day of June, 2013.

  
UNITED STATES MAGISTRATE JUDGE